

Senate Bill 38

By: Senators Ligon, Jr. of the 3rd and Cowser of the 46th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to exclude certain types of filings from the electronic filing requirements of superior and state courts; to allow individuals who are not attorneys to file such pleadings and documents in paper form; to provide that fees for electronic filings shall not be charged for pleadings or documents filed by the state, its agents, or political subdivisions, the Attorney General, district attorneys, solicitors-general, or public defenders or for the filing of leaves of absence and conflict notices; to provide that certain postjudgment proceedings shall be given a new case number for improved record keeping; to revise a definition; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising subparagraph (b)(3)(A), revising subsections (c) through (e), and adding a new subsection to Code Section 15-6-11, relating to electronic filings of pleadings and documents in superior court, electronic payments and remittances, access, and public disclosure, to read as follows:

"(3)(A) This subsection shall not apply to filings:

(i) In connection with a pauper's affidavit, any validation of bonds as otherwise provided for by law, pleadings or documents filed under seal or presented to a court in camera or ex parte, or pleadings or documents to which access is otherwise restricted by law or court order;

(ii) Made physically at the courthouse by an attorney or his or her designee or an individual who is not an attorney; provided, however, that the clerk shall require such pleadings or documents made physically at the courthouse by an attorney or his or her designee be submitted via a public access terminal in the clerk's office. The clerk shall not charge the fee as set forth in division (2)(A)(i) of this subsection for such filing but when payment is submitted by credit card or bank draft, the clerk may

charge the convenience fee as set forth in division ~~(2)(A)(ii)~~ (2)(A)(iii) of this subsection;

(iii) Made in a court located in an area that has been declared to be in a state of emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of Georgia shall provide rules for filings in such circumstances; or

(iv) Made prior to the commencement of mandatory electronic filing for such court, wherein the filer shall continue to pay fees applicable to the case on the date of the first filing; provided, however, that a party may elect to make future filings through the court's electronic filing service provider and pay the applicable fees."

"(c)(1) Except as provided for in paragraph (2) of this subsection, no clerk or electronic filing service provider shall charge a fee pursuant to subsection (a) or (b) of this Code section for the filing of:

(A) Pleadings or documents by the state, its agents, or political subdivisions to include, but not be limited to, the Attorney General, Secretary of State, district attorneys, public defenders, municipal corporations, or county governments; or

(B) Leave of absence and conflict notices filed pursuant to the Uniform Rules of the Superior Courts.

(2) A clerk or electronic filing service provider may recover the cost of any fee provided for under subparagraph (A) of paragraph (1) of this subsection that would have otherwise been charged from any available source of grant funding or other appropriations.

~~(c)~~(d) Nothing in this Code section shall be construed to prevent a clerk's acceptance of payments and remittances by electronic means under the clerk's own authority.

~~(d)~~(e) A superior court judge to whom the case is assigned and his or her staff shall, at all times, have access to all pleadings and documents electronically filed and such access shall be provided upon the physical acceptance of such pleadings and documents by the clerk.

~~(e)~~(f) Any pleading or document filed electronically shall be deemed filed as of the time of its receipt by the electronic filing service provider. A pleading or document filed electronically shall not be subject to disclosure until it has been physically accepted by the clerk. Upon such acceptance as provided for in this subsection, such pleading or document shall be publicly accessible for viewing at no cost to the viewer on a public access terminal available at the courthouse during regular business hours."

SECTION 2.

Said title is further amended by revising subparagraph (a)(4)(A) of Code Section 15-6-61, relating to duties of superior court clerks generally and computerized record-keeping system, as follows:

"(A) An automated civil case management system which shall contain separate case number entries for all civil actions filed in the office of the clerk, including complaints, proceedings, Uniform Interstate Family Support Act actions, domestic relations, contempt actions, motions and modifications on closed civil actions, any postjudgment proceeding filed more than 30 days after judgment or dismissal in an action, and all other actions civil in nature except adoptions;"

SECTION 3.

Said title is further amended by revising paragraph (1) of subsection (e) of Code Section 15-6-77, relating to fees and construction of other fee provisions, as follows:

"(1) As used in this subsection, the term 'civil cases' shall include all actions, cases, proceedings, motions, or filings civil in nature, including but not limited to actions for divorce, domestic relations actions, modifications on closed civil cases, adoptions, condemnation actions, and actions for the validation and confirmation of revenue bonds. Any postjudgment proceeding filed more than 30 days after judgment or dismissal in an action shall be considered as a new case for the purposes of this Code section and shall be given a new case number by the clerk of the superior court; provided, however, that such new case number shall not subject a party to any fee other than provided for in this Code section."

SECTION 4.

Said title is further amended by revising subparagraph (b)(3)(A), revising subsections (c) through (e), and adding a new subsection to Code Section 15-7-5, relating to electronic filings of pleadings and documents in state court, electronic payments and remittances, access, and public disclosure, to read as follows:

"(3)(A) This subsection shall not apply to filings:

- (i) In connection with a pauper's affidavit, pleadings or documents filed under seal or presented to a court in camera or ex parte, or pleadings or documents to which access is otherwise restricted by law or court order;
- (ii) Made physically at the courthouse by an attorney or his or her designee or an individual who is not an attorney; provided, however, that the clerk shall require such pleadings or documents made physically at the courthouse by an attorney or his or her designee be submitted via a public access terminal in the clerk's office. The clerk shall not charge the fee as set forth in division (2)(A)(i) of this subsection for such filing but when payment is submitted by credit card or bank draft, the clerk may charge the convenience fee as set forth in division ~~(2)(A)(ii)~~ (2)(A)(iii) of this subsection;

(iii) Made in a court located in an area that has been declared to be in a state of emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of Georgia shall provide rules for filings in such circumstances; ~~or~~

(iv) Made prior to the commencement of mandatory electronic filing for such court, wherein the filer shall continue to pay fees applicable to the case on the date of the first filing; provided, however, that a party may elect to make future filings through the court's electronic filing service provider and pay the applicable fees."

"(c)(1) Except as provided for in paragraph (2) of this subsection, no clerk or electronic filing service provider shall charge a fee pursuant to subsection (a) or (b) of this Code section for the filing of:

(A) Pleadings or documents by the state, its agents, or political subdivisions to include, but not to be limited to, the Attorney General, Secretary of State, district attorneys, public defenders municipal corporations, or county governments; or

(B) Leave of absence and conflict notices filed pursuant to the Uniform State Court Rules.

(2) A clerk or electronic filing service provider may recover the cost of any fee provided for under subparagraph (A) of paragraph (1) of this subsection that would have otherwise been charged from any available source of grant funding or other appropriations.

~~(c)~~(d) Nothing in this Code section shall be construed to prevent a clerk's acceptance of payments and remittances by electronic means under the clerk's own authority.

~~(d)~~(e) A state court judge to whom the case is assigned and his or her staff shall, at all times, have access to all pleadings and documents electronically filed and such access shall be provided upon the physical acceptance of such pleadings and documents by the clerk.

~~(e)~~(f) Any pleading or document filed electronically shall be deemed filed as of the time of its receipt by the electronic filing service provider. A pleading or document filed electronically shall not be subject to disclosure until it has been physically accepted by the clerk. Upon such acceptance as provided for in this subsection, such pleading or document shall be publicly accessible for viewing at no cost to the viewer on a public access terminal available at the courthouse during regular business hours."

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.